

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TORRENCE LEWIS,

V.

TIM GARRETT, *et al.*,

Petitioner,

Case No. 2:21-cv-01971-ART-VSF

ORDER

Respondents.

In this habeas corpus action, the Court appointed counsel for the petitioner, Torrence Lewis, on October 28, 2021 (ECF No. 6), and, after counsel appeared for Lewis, the Court entered a scheduling order on November 29, 2021 (ECF No. 11). After an initial 91-day period, and extensions of time of 60 days, 90 days, 60 days, 92 days and 90 days, Lewis was due to file an amended habeas petition by March 27, 2023. (See ECF Nos. 11, 13, 15, 18, 20, 22.)

On March 6, 2023, Lewis filed a Motion to Transport Inmate for Completion of Neuropsychological Testing (ECF No. 23), requesting that he be transported from Lovelock Correctional Center, the prison where he is currently incarcerated, to High Desert State Prison, so that neuropsychological testing of him may be completed. Lewis states that the neuropsychological testing “is relevant to an equitable tolling defense because Mr. Lewis’s federal petition is approximately four months late under the AEDPA’s one-year statute of limitations.” (ECF No. 23 at 2.) Lewis’s counsel represents that Respondents do not oppose this motion. (See *id.* at 4.) The Court will grant the motion and order Lewis transported as he requests.

In granting Lewis's motion to be transported to High Desert State Prison for completion of neuropsychological testing, the Court makes no comment

1 regarding the application or tolling of any statute of limitations applicable in this
2 case, or regarding the admissibility of any evidence developed by means of the
3 neuropsychological testing.

4 On March 27, 2023, Lewis filed a motion for extension of time (ECF No.
5 25), requesting a further 91-day extension, to June 26, 2023 (June 25 is a
6 Sunday), to file his amended habeas petition. Lewis's counsel states that this
7 motion for extension of time is made so that the neuropsychological testing may
8 be completed before Lewis files his amended habeas petition. Lewis's counsel
9 represents that Respondents do not oppose the motion for extension of time.
10 While the Court makes no comment regarding the application or tolling of any
11 statute of limitations applicable in this case, or regarding the admissibility of any
12 evidence developed by means of the neuropsychological testing, the Court
13 determines that Lewis's motion for extension of time is made in good faith and
14 not solely for the purpose of delay, and that there is good cause for the requested
15 extension of time.

16 It is therefore ordered that Petitioner's Motion for Extension of Time (ECF
17 No. 25) is granted. Petitioner will have until and including June 26, 2023, to file
18 his amended habeas petition. In all other respects, the schedule for further
19 proceedings set forth in the order entered November 29, 2021 (ECF No. 11) will
20 remain in effect.

21 It is further ordered that Petitioner's Motion to Transport Inmate for
22 Completion of Neuropsychological Testing (ECF No. 23) is granted. The warden of
23 Lovelock Correctional Center, or other appropriate Nevada Department of
24 Corrections official, is hereby ordered to transport Petitioner Torrence Lewis to
25 High Desert State Prison, where he is to remain until neuropsychological testing
26 of him by Dr. Sharon Jones-Forrester is completed.

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1 It is further ordered that, pursuant to Federal Rule of Civil Procedure 25(d),
2 Tim Garrett is substituted for Calvin Johnson as the respondent warden. The
3 Clerk of the Court is directed to update the docket to reflect this change.

4 DATED THIS 3rd day of April, 2023.

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7 ANNE R. TRAUM
8 UNITED STATES DISTRICT JUDGE

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